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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,614	11/24/2003	Scot Thompson	32541-01	5615

7590 04/22/2005

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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/721,614

Applicant(s)

THOMPSON, SCOT

Examiner

Robert M. Fetsuga

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spells, Sr. et al. and Turner et al.

The Spells, Sr. et al. (Spells) reference discloses a seal adapter comprising: an annulus 19 including upper 13 and lower 15 surfaces; a tubular portion 14; and a pair of flanges 22.

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The annulus and tubular portion are constructed in one piece of elastic (plastic) material. The flanges are capable of engaging a sewer pipe and closet flange as functionally recited.

Therefore, Spells teaches all claimed elements except for the flanges being one piece with the tubular portion.

Although the flanges of the Spells seal adapter are not one piece with the tubular portion, as claimed, attention is directed to the Turner et al. (Turner) reference which discloses an analogous seal adapter which further includes a tubular portion 20 and flanges 34-36 that are one piece (col. 3 lns. 27-33). Therefore, in consideration of Turner, it would have been obvious to one of ordinary skill in the seal adapter art to associate one piece construction with the Spells tubular portion and flanges in order to facilitate sealing with sewer pipes of similar dimensions.

Applicant argues at page 6 of the response filed February 25, 2005 both the Spells and Turner adapters are suitable for connection to only one size sewer pipe. Initially, it is noted the sewer pipe and closet flange are not even set forth as part of the claimed combination. In any event, the examiner has again reviewed the Spells and Turner disclosures, and no such teaching was found therein. Actually, the removability of the flanges 22 disclosed by Spells would appear to allow differently

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sized flanges to be used with the same tubular portion thereby inherently providing the possibility of connection to differently sized sewer pipes.

3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spells, Turner and Schwartz et al.

In addition to the discussion supra, Schwartz et al. (Schwartz) evidences the well known problem in the seal adapter art of providing an adapter that can create an effective seal with multiple sizes of sewer pipes. Note lines 52-65 in column 1 of Schwartz, for example.

4. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spells, Turner and Schwartz as applied to claim 2 above, and further in view of Thies.

The Spells seal adapter further comprises a washer 17.

Although the washer of the Spells seal adapter does not include foam plastic, as claimed, attention is directed to the Thies reference which discloses an analogous seal adapter which further includes a foam plastic (col. 1 lns. 44-46) washer 10. Therefore, in consideration of Thies, it would have been obvious to one of ordinary skill in the seal adapter art to associate foam plastic with the Spells washer in order to facilitate sealing.

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Applicant has not argued this grounds of rejection beyond noting claim dependency.

5. Applicant's remarks have been fully considered and have been previously addressed.

6. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

7. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", with a stylized flourish at the end.

Robert M. Fetsuga  
Primary Examiner  
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